

Serial No.: 10/016,418
Confirmation No.: 8652
Art Unit: 1624

AM100315

REMARKS

Applicants respectfully request the Examiner to enter the above amendments and to reconsider the restriction requirement in view of the following remarks.

Status of Claims

Claims 1 to 19 will be pending after entry of the present amendment. Claims 10 to 18 are being amended, and Claim 19 is being added.

Amendment

Claims 10 to 12 are being amended to correct typographical errors in the dependencies of the claims. Claims 13 and 16 are being amended to place them in proper independent form and to provide a definition for R₃. Claims 14, 15, 17 and 18 are being amended to correct the dependencies to be consistent with either Claims 13 or 16.

Claim 19 is new and is supported by the specification for example at page 5, line 31 to page 7, line 8.

No new matter is added by the amendments to the claims.

Response to Restriction Requirement

The Examiner has required restriction of the claims under 35 U.S.C. § 121 as follows:

I. Claims 1 to 12 drawn to the cyclopenta[b]indole compounds, classified in class 548, subclass 449.

II. Claims 13 to 18, drawn to the process of preparing diazabenzocyclopenta[a]azulene, classified in class 540, subclass 555.

Election

Applicants elect the claims of Group II (Claims 13 to 18) with traverse.

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Restriction Between Groups I and II

With respect to Groups I and II, the Examiner has required restriction between process claims for making diazabenzocyclopentaazulene compounds (Group II) and intermediate compounds (Group I) that are used in the process claims of Group II. Applicants respectfully traverse this restriction requirement for the reasons set forth below.

For a restriction requirement to be proper under 35 U.S.C. §121, there must be a serious burden to the Examiner to search if restriction is not required (see e.g., MPEP §803). Applicants respectfully submit that it would not be a serious burden for the Examiner to examine all claims as amended because of the relationship of the claims. In this regard, the intermediate compounds of Claims 1, 5, and 9 are required in at least one of the process claims of Claims 13, 16 or 19. Thus, a search of the process of Claim 13, 16, and 19 will also involve a search of the compounds of Claims 1, 5, and 9. Thus, it is respectfully submitted that it would not be a serious burden for the Examiner to search the intermediate compound claims of Group I while searching for the process claims of Group II.

For these reasons, it is respectfully requested that the claims of Group I be regrouped with the claims of Group II.

CONCLUSION

Applicants respectfully request entry of the present amendment and reconsideration of the restriction requirement. Early and favorable notification of allowance of all pending claims is earnestly requested.

Respectfully Submitted,



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